



# FROM COUNSEL

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Keeping You Informed On Personal Legal Affairs

## Army Notary Services

Annually about 400 Army civilian and military legal personnel notarize over 410,000 documents - powers of attorney, wills, and bills of sale - among others. Army military notaries and civilian employees commissioned by States provide this important service free to soldiers, retirees, and their families. This is a particularly important service for our overseas military personnel. Powers of Attorney for stateside spouses or family members are the most common legal documents our troops living abroad need.

**What does a Notary do?** A Notary acts as an official, unbiased witness to the identity and signature of a person who appears before the notary for an oath or affirmation, or to sign a document. The notary's signature indicates that the notary verified the identity of the person who appeared and signed, executed, or acknowledged the document. Notaries are careful to ensure that the person signing is in fact, who he/she claims to be. In addition, the notary makes sure that the client is acting voluntarily and not being forced to sign documents against his/her will. The Notary should be confident that a client is not being bullied into signing a document against his/her will. Moreover, the Notary makes sure the client understands what he/she is signing. If the client responds to questions understandably and has made a request for the notarization, then the client can be considered competent for the purposes of the notarization.

Often, Army notaries are asked to certify copies instead of, or in addition to, notarizing them. There is a difference.

**Notarization:** The notary signature and seal (when used) indicates that the person purporting to sign the document appeared before the notary, produced identification or was known personally by the notary, and signed the document in the presence of the notary.

**Certification:** This is a process that means that a document is a full, true, and accurate copy (transcription or reproduction) of the original document. Most public records and documents like marriage licenses, birth certificates, divorce decrees, titles, etc., are recorded in public offices and those offices certify copies. Occasionally, Army notaries may make a "true" copy for presentation to a military or government agency IAW AR 27-55, Notarial Services.

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**Limits on Notary Services.** Army Regulation 27-55, Notarial Services, provides policies and procedures for Army military and civilian personnel performing notarial services as part of their official duties. State laws and regulations also restrict notary services. For example:

- A notary cannot notarize a previously signed or incomplete document (one with blanks left in it) or "verify" (authenticate) the signature of someone who does not personally appear before the notary at the time the signature was affixed to the document. Those items intended to remain blank or empty should be lined through or have "Not applicable" entered before signature.
- A notary will not certify the authenticity of public, official, registered, or court records or documents, nor issue certified copies of such documents or records unless allowed to do so under AR 27-55 or other applicable law or regulation. Military notaries may certify copies of public records or publicly recorded documents from an official source for limited military administration, including finance and personnel administration.
- A notary will not notarize a general power of attorney before determining that the client has received advice from an attorney on the nature and effect of a general power of attorney.
- No notary will perform nor be ordered or otherwise required to perform a notarial act that the notary believes:
  - (1) Is for a transaction which the notary knows or suspects is illegal, false, or deceptive.
  - (2) Is for a person who is being coerced.
  - (3) Is for a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act.
  - (4) Impugns or compromises the notary's impartiality.

Notaries frequently keep a journal of services provided. It may include the name and signature of the individual whose signature was notarized, general description of the document notarized, and the dates and location of the notarial services.

**Must a notary seal appear on the notarized document?** Not usually. Under 10 USC 1044a(d), the notary's signature, title, and authority (10 USC 1044a) are all that are required for military notarial acts. IAW AR 27-55, chapter 4, no seal is required for notarial services performed by military notaries, however, a raised seal is an extra assurance to enhance the acceptance of the notarized document, and may be used.

**Where can I get a document notarized?** Individuals eligible for legal assistance should bring their ID card (or other photo identity evidence) and the document unsigned to the supporting Legal Assistance Office. Most Legal Assistance Offices offer notary services on a walk-in, no appointment basis during normal duty hours.

*FROM COUNSEL is distributed by the 2d Infantry Division Office of the Staff Judge Advocate, Camp Casey Legal Center, located in Building T-43. Our office hours are: 0900-1700 Monday-Friday; 1300-1600 Thursdays. To see a Legal Assistance Attorney, please call for an appointment at 730-1885/1889 or walk in on Tuesdays from 1300-1700 and Thursday from 1300-1600. Check our Legal Services web site, <http://www.jagcnet.army.mil/legal> for other helpful legal information on similar personal legal affairs topics.*